IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1548 of 2004

IN

A.O.NO.1090 OF 2004

IN

NOTICE OF MOTION NO.4096 OF 2004

IN

B.C.C.C.SUIT NO.4666 OF 2004

Garware Club House .. Applicant
(Org.Defendant)

vs.

Shri Dilip V. Shah .. Respondent
(Org. Plaintiff)

Shri Janak Dwarkadas i/b. M/s. Dhruva Liladhar & Co, for the Applicant.

Mr.R. Narula i/b. Jhangania Narula & Associates, for the Respondent.

CORAM : A.S.OKA, J.

DATED : 1st February, 2005.

P.C. :

1. Rule. Respondent waives service. Heard forthwith. The learned Counsel appearing for the appellant states that when this appeal was moved before this Court on 10.12.2004, the learned

Counsel appearing for the respondent made a statement that till the matter is heard on the next date the respondent will not enter the club for enjoying the facilities as a member. He has invited my attention to the order dated 21.12.2004 by which this Court directed that till further orders the respondent shall not be permitted to use the club. The learned Counsel for the appellant submitted that the order impugned is ex-facie illegal as the same amounts to interference by Court in the functioning of a private club at interlocutory stage.

2. The learned Counsel appearing for the respondent submitted that the action taken against the respondent is as a result for an election dispute and the said order is malafide. He, therefore, submitted that no interim relief can be granted in this appeal. He relied upon a Judgment of learned Single Judge of this Court reported in AIR 1999 Bombay page 133 (Kailash Nath Harsh and etc vs. D.C.Patel & Ors.) and submitted that the appellants are not entitled to interim relief.

3. It is pertinent to note that on 27.9.2004 the Managing Committee of the appellant imposed punishment of suspension of 5 years. The said order was operating till the disposal of the motion. The motion was disposed of by trial Court on 9.12.2004 and as pointed out earlier from 10.12.2004 there is an arrangement which prevents the respondent from enjoying the facilities at the club as a member. Since I am fixing the appeal for final hearing on 28.2.2005, the order dated 21.12.2004 passed by this Court deserves to be continued.

4. Accordingly, order dated 21.12.2004 will continue to operate till disposal of the appeal. Civil application is disposed of accordingly with no order as to costs.

5. The Respondent will be at liberty to apply in case the appeal is not heard within a reasonable time.

. Parties to act on the authenticated copy of this order.

(A.S.Oka, J.)